

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**DATATREASURY CORPORATION,**

**Plaintiff**

**v.**

**WELLS FARGO & COMPANY, ET AL.,**

**Defendants**

**2:06-CV-72 DF**

**DEFENDANT BANK OF AMERICA'S UNOPPOSED MOTION FOR AN  
EXTENSION OF TIME TO FILE A REPLY BRIEF IN SUPPORT OF ITS  
MOTION FOR SUMMARY JUDGMENT OF CLAIM INVALIDITY AS TO  
U.S. PATENT NO. 5,265,007**

Defendants Bank of America Corporation and Bank of America, National Association (collectively, "Bank of America" or "Defendants") file this unopposed motion for an extension of time from July 9, 2007 to July 12, 2007, to file its Reply in support of its Motion for Summary Judgment of Claim Invalidity Based on Indefiniteness for U.S. Patent No. 5,265,007 ("Motion"), and, in support thereof, would show the Court as follows:

1. On June 8, 2007, Bank of America filed its "Motion for Summary Judgment for Claim Invalidity Based on Indefiniteness of U.S. Patent No. 5,265,007." See Docket No. 710. On June 26, 2007, Plaintiff Datatreasury Corporation ("Plaintiff") served its response to the Motion. See Docket No. 731.<sup>1</sup>

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<sup>1</sup> Plaintiff served its Response on June 25, 2007, at 7:17 p.m. CDT. Under Local Rule 5(a)(3)(C), "documents filed electronically after 5 p.m. local time of the recipient shall be deemed served on the following day." Thus, Plaintiff's Response is deemed served on June 26, 2007.

2. Bank of America's reply to Plaintiff's Response is currently due on or before July 9, 2007. *See* Local Rule 7(e). This is the same date that all defendants in this matter are to file their response brief(s) on claim construction issues as to all four patents-in-suit. Thus, Bank of America seeks to extend its reply deadline by three days from July 9, 2007 to July 12, 2007. The bases for the requested extension are to alleviate the pressure and inefficiency of drafting and filing two substantive briefs on the same date and to most efficiently utilize the time and skill of the legal personnel involved in these briefs.

3. Pursuant to Federal Rule of Civil Procedure 6(b), "for cause shown" the Court may enlarge a period of time "with or without motion or notice . . . if request therefore is made before the expiration of the period originally prescribed." FED. R. CIV. P. 6(b). Bank of America makes this request for an extension of time before the expiration of the current deadline for filing a reply. Moreover, this request is made so that justice may be done and not solely for purposes of delay or any other improper purpose.

4. Plaintiff's counsel does not oppose this request.

WHEREFORE, Defendants Bank of America Corporation and Bank of America, National Association respectfully request that the Court grant this Motion, and that the Court grant such other and further relief at law and equity to which Defendants may be justly entitled.

Dated: June 28, 2007

Respectfully submitted,

FISH & RICHARDSON P.C.

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BANK OF AMERICA, NATIONAL  
ASSOCIATION

**CERTIFICATE OF CONFERENCE**

On June 27, 2007, Counsel for Defendants, Brett Johnson, conferred via e-mail with Counsel for Plaintiff, Karl Rupp, regarding the relief requested by this Motion. Mr. Rupp indicated that Plaintiff is unopposed to the relief sought.

/s/M. Brett Johnson

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Counsel for Defendants Bank of  
America Corporation and Bank of  
America, National Association.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on June 28, 2007 to all counsel of record pursuant to the Court's CM/ECF system.

/s/ M. Brett Johnson

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M. Brett Johnson

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